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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,014	08/29/2001	Dulcie Elizabeth Papsco	Papsco - 2	9513

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EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/943,014	<b>Applicant(s)</b> PAPSCO ET AL.	
	<b>Examiner</b> Cristina Owen Sherr	<b>Art Unit</b> 3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to applicant's amendment filed December 30, 2004. Terminal disclaimer is noted. Claims 1-20 are pending in this case.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US 6,662,231).

5. Regarding claims 1 and 5 –

Drosset discloses a selective audio database and system, comprising a common carrier, said common carrier adapted to transmit file audio signals from a first location to a second location; means providing access server connected to said common carrier at said first location, a database connected to said server, said data base including said file of audio signals sufficient to encode narrative or music; and means for transmitting said file of audio signals through said common carrier a user disposed at said second location (e.g. abstract, col 1 ln 10-30; col 2 ln 35 - col 3 ln 35, col 21 ln 54 – col 22 ln 30). Drosset further discloses an audio database that contains

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audio files. It is well known in the art that audio signals/files can comprise music, narratives, different types of speech or any other humanly audible sound. It would have been obvious for one of ordinary skill in the art to modify Drosset by making the database of audio files into a database of music files.

6. Regarding claims 2 and 3-

Drosset discloses the selective audio database and system of claim wherein said common carrier inherently includes a telephone line and in internet. (e.g. col 2 ln 35 - col 3 ln 35).

7. Regarding claims 4 and 7 –

Drosset discloses the selective audio data base and system of claim 1 wherein said data base includes a plurality of said tiles, each of said plurality of files including a compilation of audio signals sufficient to encode a different musical piece. (e.g. col 1 ln 10-30, col 2 ln 35 - col 3 ln 35, col 21 ln 54 - col 22 ln 30, col 4 ln 30-65).

8. Regarding claim 6 –

Drosset discloses the selective audio data base and system of claim 1 wherein said means transmitting said file of audio signals through said common carrier a user disposed said second location includes means for providing said user with said file in real-time (e.g. Abstract, col 1 ln 10-30).

9. Regarding claim 8 –

Drosset discloses the selective audio database and system of claim 1 including means subscribing wherein authorization to obtain is denied said user until said user has complied with means for subscribing. (e.g. col 3 ln 45-67).

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10. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US Patent No 6,662,231) in view of Schiller et al. (US Patent No 6,442,573).

11. Regarding claims 9-10 –

Drosset discloses the selective musical database and system of claim 8, which includes user subscriptions. It is well known in the art that subscription periods can be based on various time periods. Drosset fails to explicitly teach wherein said means of subscribing includes a monthly subscription and includes a subscription interval that is other than monthly. However, Schiller teaches providing files to subscribers based on daily, weekly or monthly subscriptions. (e.g. col 22 ln 55-67).

12. It would have been obvious for one of ordinary skill in the art to modify Drosset by

making the subscription periods either weekly or monthly as per the teachings of Schiller so that users can have limited access based on their subscription.

13. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US 6,662,231) in view of Peterson et al. (US 5,825,876).

14. Drosset discloses the selective audio database and system of claim 8, which includes user subscriptions. Various forms of payment options are well known in the art. Drosset fails explicitly teach wherein said means for subscribing includes paying each access to said system; includes means for paying the amount of time said access to said system is provided; and includes providing access via a telephone number that includes a charge that is made for each unit of elapsed time and wherein the elapsed

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time accrues whenever said user is connected to said server. However, Peterson teaches pay-per-access, pay-per-time and pay-per-elapsed-time. (e.g. Abstract and Summary).

15. It would have been obvious for one of ordinary skill in the art to modify Drosset by

making the subscription payment options include pay-per-access, pay-per-time and pay-per-elapsed-time as per the teachings of Peterson so that users can select their subscription based on their needs.

16. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US 6,662,231).

17. Regarding claim 14 –

Drosset discloses a selective audio database and system, comprising a common carrier, said common carrier adapted to transmit file audio signals from a first location to a second location; means providing access server connected to said common carrier at said first location, a database connected to said server, said data base including said file of audio signals sufficient to encode narrative or music; and means for transmitting said file of audio signals through said common carrier a user disposed at said second location (e.g. abstract, col 1 ln 10-30, col 2 ln 35 - col 3 ln 35, col 21 ln 54 – col 22 ln 30). Drosset further discloses an audio database that contains audio files. It is well known in the art that audio signals/files can comprise music, narratives, different types of speech or any other humanly audible sound. It would have

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been obvious for one of ordinary skill in the art to modify Drosset by making the database of audio files into a database of music files.

18. Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US 6,662,231) in view of Gabai (US 6,368,177)).

19. Drosset teaches the selective audio data base and system of claim 14 above, wherein a computer receives the audio files. Drosset fails to explicitly teach wherein said means for receiving includes a transceiver; wherein said transceiver is adapted to transmit said audio signals to a third location, wherein said third location includes means for receiving said transmitted file of audio signals transceiver and including means for converting said transmitted into a format adapted for listening to said narrative; wherein said third location disposed figurine; and wherein said figurine includes a stuffed animal figurine. However, Gabai discloses wherein the computer includes a transceiver, transmits audio to a third location, converting audio to a format for listening, and wherein the third location is a stuffed figurine. (e.g. Abstract, col 2 ln 1-35, col 12 ln 1-30, col 13 ln 10-30, col 14 ln 14-37).

20. It would have been obvious for one of ordinary skill in the art to modify Drosset to wherein the computer includes a transceiver, transmits audio to a third location, converting audio to a format for listening, and wherein the third location is a stuffed figurine as per the teachings of Gabai so that a talking toy can receive audio files from a computer.

21. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drosset et al (US 6,662,231).

21. Regarding claim 20 –

Drosset discloses a selective audio database and system, comprising a common carrier, said common carrier adapted to transmit file audio signals from a first location to a second location; means providing access server connected to said common carrier at said first location, a database connected to said server, said data base including said file of audio signals sufficient to encode narrative or music; and means for transmitting said file of audio signals through said common carrier a user disposed at said second location (e.g. abstract, col 1 ln 10-30, col 2 ln 35 - col 3 ln 35, col 21 ln 54 – col 22 ln 30). Drosset further discloses an audio database that contains audio files. It is well known in the art that audio signals/files can comprise music, narratives, different types of speech or any other humanly audible sound. It would have been obvious for one of ordinary skill in the art to modify Drosset by making the database of audio files into a database of music files.

22. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

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**Conclusion**



23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

24. Brelis et al (US 6,544,040) disclose a method, apparatus and article for presenting a narrative, including user selectable levels of detail.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

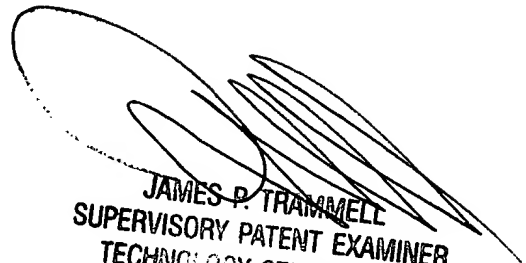
26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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